

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

SERVO CORPORATION OF AMERICA, INC.,

Chapter 7
Case No. 12-76993-AST

Debtor.
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Allan B. Mendelsohn, as Chapter 7 Trustee
of the estate of Servo Corporation of America, Inc.,

Plaintiff,

-against-

Adv Pro No. 14-8048-AST

Stephen A. Barre and Charles S. Holmes,

Defendants.
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AMENDED JOINT DISCOVERY CONTROL PLAN

The Plaintiff, Allan B. Mendelsohn as the Chapter 7 Trustee (the “Plaintiff”) of the estate of Servo Corporation of America, Inc. (the “Debtor”), by his attorneys, LaMonica Herbst & Maniscalco, LLP, Defendant, Stephen A. Barre (“Barre”), by his attorneys, Weinberg Gross & Pergament LLP, and Defendant, Charles S. Holmes (“Holmes”, along with Barre are collectively referred to herein as the “Defendants”), by his attorneys, Thompson Hine LLP, as and for their Amended Joint Discovery Control Plan in this adversary proceeding (the “Adversary Proceeding”), collectively state as follows:

CERTIFICATION

1. Pursuant to an Order of the Court dated May 22, 2014 (the “Initial Scheduling Order”), counsel for the Plaintiff and counsel for each of the Defendants (collectively, the “Parties”) conferred in accordance with Rule 7026(f) of the Federal Rules of Bankruptcy Procedure (the “Rule 26(f) Conference”).

2. In connection with the Rule 26(f) Conference, the Parties discussed the nature of the claims and defenses in the Adversary Proceeding. The Plaintiff's complaint seeks to avoid and recover transfers in the sum of \$396,027.01 (the "Transfers") made by the Debtor to Barre pursuant to 11 U.S.C. §§ 105, 502(d), 510, 541, 542, 544(b), 547, 549, 550 and 551, the New York State Business Corporation Law §§ 510, 513, 520, 713, 714, 715, 717, 719 and 720, the Delaware General Corporation Law §§ 160, 170, 173 and 174, and Rules 6009 and 7001 of the Federal Rules of Bankruptcy Procedure. Barre has asserted that the complaint fails to state a cause of action and demands a trial by jury. Holmes has also asserted, among other things, that the Plaintiff has failed to state a claim upon which relief may be granted, that the Court lacks jurisdiction and that the complaint and claims are barred by the doctrines of laches, estoppel, waiver and/or res judicata.

PROPOSED DISCOVERY PLAN

3. During the Rule 26(f) Conference, the Parties discussed and agreed upon the following:

- a) The Plaintiff and each of the Defendants will serve their Rule 26 Disclosures no later than August 27, 2014;
- b) The Plaintiff and each of the Defendants have not identified a specific expert at this time but reserve the right to employ an expert witness. At such time as the Parties designate their expert witnesses, each shall comply with its expert disclosure obligations under Rule 7026 of the Federal Rules of Bankruptcy Procedure;
- c) All discovery shall be completed by February 13, 2015;
- d) Dispositive motions, if any, shall be served and filed no later than February 27, 2015;
- e) The Plaintiff believes that he can present his case in chief in one to two (1-2) days. Each of the Defendants believes that he can present its case in one (1) day; and

f) The Parties propose a trial date after March 30, 2015.

Dated: December 8, 2014

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